

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

**UTILITY WORKERS, LOCAL 369,
ET AL.,**

Plaintiffs

v.

**CIVIL ACTION NO.:
03-10530-EFH**

**NSTAR ELECTRIC & GAS
CORPORATION,**

Defendant.

MEMORANDUM AND ORDER

October 27, 2003

HARRINGTON, S.D.J.

The plaintiffs' Motion for Class Certification [No. 29] is denied. This is a breach of contract case involving the allegation that changes made by the defendant to certain retirement benefits that were promised to the plaintiffs violates state and federal law, including the Labor Management Relations Act, 29 U.S.C. § 141, and the Employee Retirement Income Security Act of 1974, 29 U.S.C. § 1001.

According to the plaintiffs' own memorandum in support of class certification, various sources of evidence establish that these promises were made, including individual retirement documents, collective bargaining agreements, personnel reduction program documents, a union consolidation agreement, past practices of the parties, and oral representations by company officials. The plaintiffs' memorandum also

states that different named plaintiffs rely on different combinations of this evidence to establish liability. Because the claims of different plaintiffs stem from different sources of evidence, this Court would be required to engage in an individualized analysis of each promise made to each plaintiff. See Rivera v. Am. Home Prods. Corp., 191 F.R.D 45, 48 (D.P.R. 1999). This type of individualized analysis defeats the typicality requirement of Fed.R.Civ.P. 23(a). See Collazo v. Calderon, 212 F.R.D. 437, 443 (D.P.R. 2002). This Court would, however, entertain future motions to certify a class of individuals with claims that rely primarily on the same documents or promises.

SO ORDERED.

/s/ Edward F. Harrington

EDWARD F. HARRINGTON

United States Senior District Judge